



**Town of Monroe
PLANNING AND ZONING COMMISSION**

7 Fan Hill Road
Monroe, CT 06468

Planning and Zoning Department (203) 452-2812
Fax (203) 261-6197

CERTIFIED MAIL RETURN No. 7009 2250 0002 9165 7539

August 29, 2012

Pond View, LLC
Attn: Jay Keillor
525 John Street, 2nd Floor
Bridgeport, CT 06604

Re: Application Type: Special Exception Permit – new Commercial Buildings
Location of site: 127 Main Street (CT Route 25), Monroe, CT

Dear Mr. Keillor:

Attached is the original decision of the Planning and Zoning Commission, dated September 21, 2006, in relation to the above-noted application.

As you are aware, this decision has been under appeal since its approval, under Docket No. CV06-4018343S in Superior Court, J.D. of Fairfield at Bridgeport, CT (Jeffrey Zimnoch, Hannah Zimnoch, Elizabeth Murphy and Sally Lundy v. Planning and Zoning Commission of the Town of Monroe and Pond View, LLC).

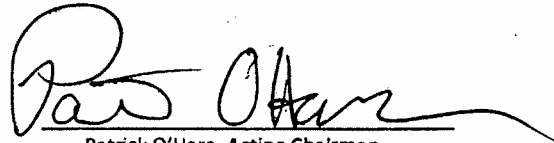
As a final decision in favor of your application was rendered by Judge Owens on June 13, 2012, you are instructed to file this approval in the Land Records of the Town of Monroe within ninety (90) days of that decision, as provided by Condition # 23 of the Special Exception Approval.

Pondview, LLC - 127 Main Street
August 29, 2012

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Accordingly, please file the enclosed Notice of Decision, as well as this letter, in the Monroe Land Records. It is the responsibility of Pond View LLC, or that of its designated representative, to appear in this office to receive these documents and then formally record them in the Land Records. Failure to do so within the time period specified in the approval will void the permit.

For the Commission:



Patrick O'Hara, Acting Chairman

cc: Attorney Christopher Smith
Scott Schatzlein, Town Engineer / Inland Wetlands Agent
Joseph Chapman, Zoning Enforcement Officer
Patrice Sulk, Director, Trumbull/Monroe Health District
James Sandor, Chief Building Inspector
William Davin, Fire Marshal
John Salvatore, Chief of Police
Elizabeth Duffy, Assessor
Regular Mail

FINAL DECISION

AGENDA ITEM 4a

Special Exception Permit – 127 Main Street – Commercial Business Shopping Center Site Plan
(Pond View LLC, *applicant*)

September 21, 2006

SPECIAL EXCEPTION PERMIT*

Pond View, LLC, 127 Main Street

A motion by Wm. Mark Michaels, second by Michael Parsell, that upon due and deliberate consideration of the application, supporting materials and documents, the record in general, and all relevant testimony, the Commission votes to approve the application for special exception permit at 127 Main Street, for Pond View, LLC, based upon the following reasons and findings:

1. The Commission finds that
 - a. the application of Pond View LLC has been submitted in proper form with the requisite supporting maps, plans, documents and related information, and requisite Town of Monroe staff review reports;
 - b. the application has been submitted meeting the requirements of "Uniform Land Use Application" and the Zoning Regulations;
 - c. the application has been submitted as part of a combined application for change of zone and special exception permit/site plan as required by the Regulations (Regulations pg. 57, §117-900A);
 - d. the application has met all notice requirements of the Connecticut General Statutes (CGS) and the public hearing and all related meetings have been conducted as required by such statutes;
 - e. such application and documentation, hearings and meetings form the basis for this action by the Commission.
2. The Commission finds zoning of the subject site is a Design Business District 1 (DB1 zone) established by Order of the Superior Court in a Memorandum of Decision dated July 17, 2006, in the matter of Pond View LLC vs. Monroe Planning & Zoning Commission, Docket Number CV05 400 77 59, filed July 18, 2006.
3. The Commission finds that the request for special exception permit for commercial use is valid for their consideration.
4. The Commission finds that the design and proposed development of the site is consistent with the permitted uses of the DB1 zone and complies with all related standards and requirements for such uses, buildings and improvements.

* This document consists of 10 pages

5. The Commission finds that the proposal is consistent with the "Monroe 2000 Plan of Conservation & Development" ("Plan").
6. The Commission finds that the use as proposed is consistent with numerous other business uses in the immediate and general area and along the adjacent commercial highway corridor.
7. The Commission finds that the proposed centralized focused business center will be more beneficial to the community in general than the less desirable, haphazard strip development that characterizes the existing developed business zones.
8. The Commission finds that the proposal will meet a community need as it will stimulate needed economic growth and growth of goods and services required in the community.
9. The Commission finds that the proposal will encourage economic development, defined as a priority issue in the Plan (Plan pg. 6), and move the town toward a more balanced tax base (Plan discussion pg. 61).
10. The Commission finds that the subject land is not identified as a "significant" or "important" conservation area per the Plan (Plan map pg. 33).
11. The Commission finds that the subject land is not identified as a location of, or requiring Historic Preservation per the Plan (Plan map pg. 45).
12. The Commission finds that as evidenced by the findings and decisions of the Inland Wetlands Commission in its decisions of December 8, 2004, the site plan that is a prerequisite to the rezoning proposal (Zoning Regulations pg. 57, §117-900A) will serve to promote the natural resources conservation strategies of the Plan (Plan pg. 34, pts. 3-6).
13. The Commission finds, in consideration of the action of the Inland Wetlands Commission, that "Site Plan Alternate 7" is the preferred alternative and the basis of this action. While two alternatives were presented by the applicant the basic differences were reflective of wetland design considerations. For the purposes of zoning and use, and the basic development scheme, neither alternative differed substantially, therefore, based upon the Wetland Commission findings Alternate 7 presents the plan better suited to the environment.
14. The Commission finds that as evidenced by the findings of the town's consulting engineer report of September 16, 2004, the site plan that is a prerequisite to the rezoning proposal (Zoning Regulations pg. 57, §117-900A) will serve to promote the water resources/natural resources conservation strategies of the Plan (Plan pg. 34).
15. The Commission finds the location appropriate for the introduction of new (expanded) business development. The community structure strategies of the Plan seeks to focus business development in appropriate areas by discouraging major expansions of business or industrial zones (Plan pg. 48); however, the Plan discusses the encouragement of economic development (Plan pg. 61) and states that there are few

areas in Monroe that are suitable for the introduction of new business or industrial zones other than Route 25.

16. The Commission finds that the rezoning will further the infrastructure strategies of the Plan by the expansion of public water service to provide for water supply and fire protection.
17. The Commission finds that the applicant, through his expert testimony and studies, has presented a case to warrant positive consideration of the special exception permit/site plan based upon the standards for such found in §8-2, CGS. In the Commission's opinion, while there will be short term development impacts, once completed, the improvements and mitigation will provide for long term adequate and reasonable protection of public health and general welfare, safety and convenience, including specific areas of concern including traffic management and congestion, sewage disposal, water supply drainage and general impacts to adjacent areas.
18. The Commission finds that the permanently preserved open space area along the westerly side of the site would establish, *de facto*, a permanent physical, natural barrier to limit further expansion of the site development and encroachment to residential districts to the west. The open space would establish a desirable, permanent, natural transition between both the business and residential districts.
19. The Commission finds that by virtue of adjacent, permanently preserved open space, the adequacy of natural landscape, new buffer protections and the general interior design, the existing character of the neighborhood and general location will not be unreasonably impacted by a project of this magnitude.
20. The Commission finds that in weighing the testimony and evidence, the development of the site would not adversely impact a limited number of adjacent homes. As such, in the Commission's opinion, the project would not adversely degrade property values and established life styles within the localized area, or community in general.
21. The Commission, upon reviewing the opposing testimony in the record, agrees that although many concerns and perceived adverse impacts are reasonable, finds them to be either unsubstantiated, conjecture, or not based in fact, and are therefore not fatal to the proposal.
22. The Commission, upon reviewing the opposing testimony in the record, finds that no expert testimony has been offered to repudiate or contradict any element of the applicant's proposal to give the Commission cause to reject the requested special exception permit.
23. The Commission finds that in response to the Notice of Intervention submitted pursuant to §22a-19 CGS, upon reviewing each of the claims made and expert testimony submitted, that while short term effects may be realized, by appropriate mitigation and other safeguards that have been incorporated into the plan, there will be no unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resource of the State, or significant irreparable harm to the environment.

This is borne by the expert testimony of the applicant, while the intervenors and other witnesses produced no credible, expert testimony in support of the claims. The Commission further finds that there is no feasible and prudent alternative available or required to protect any of the aforementioned resources.

Therefore, based upon the foregoing findings and conclusions the application meets all of the standards and criteria of Articles 9 and 18 for its approval.

FURTHER, the approval of the special exception permit is given subject to the following specific conditions:

1. The following titled plans including revisions and additions hereafter specified by the Commission shall be the approved site plan of record and the basis for all final construction plans-
 - "Alternate Site Plan 7 for Phase III, 127 Main Street (CT. RTE. 25), Monroe, Connecticut, Prepared For Pond View L.L.C." dated Nov. 15, 2004, including a compilation of design detail and specifications produced by Land Engineering Associates.
2. For the purpose of this permit the words "applicant," "owner," "developer" or "Permittee" may be used interchangeably and shall refer to the applicant of record Pond View L.L.C., its heirs, assigns and successors; the term "Commission" shall mean the Monroe Town Planning and Zoning Commission; the words "site," "property" or "premises" may be used interchangeably and shall refer to all of the land subject to the application and approval; the term permit shall mean the special exception permit including the approved site plan of record.
3. Should a reversal of the decision of the Superior Court, Docket Number CV05 400 77 59, filed July 18, 2006, occur that invalidates the related change of zone at the conclusion of all possible litigation, such action shall render this permit null and void.
4. Improvements to Main Street/CT Rte 25 and adjacent areas and intersections, including traffic controls and devices, are accepted as the minimum level of improvements to be made. The Commission's agreement and acceptance of the proposed improvements shall be made known to the State Traffic Commission (STC) as part of an application to that agency. The Commission has no objection to a greater level of improvements should the STC require them.
5. Improvements to Main Street/CT Rte 25 and adjacent areas and intersections, including traffic controls and devices, shall be made at no cost to the Town of Monroe. No future cost of operation or maintenance will be accepted or borne by the Town of Monroe.
6. Within six (6) months of the date of approval, application shall be finalized with The Connecticut Department of Transportation (DOT) and the STC for access and

- improvements to Route 25 and adjacent areas based upon the detail shown on the plan and the applicant's traffic engineering recommendations.
7. Copies of all correspondence between Permittee, DOT and STC shall be copied to the Town Planner. Copies of DOT and STC approvals and permits shall be promptly furnished to the Town Planner.
 8. Foundation building permits ("partial permits") may be issued and acted upon at the Permittee's own risk.
 9. No other structural building permits shall be issued for the site until DOT and/or STC permits are in place.
 10. No Certificates of Occupancy shall be issued until DOT and/or STC provides written authority for same related to the status of progress of requisite highway improvements.
 11. Site work is authorized without securing DOT and/or STC permits as specified in condition no. 5.
 12. Any work performed while litigation may be pending shall be performed at the Permittee's own risk. Appropriate bonds in amount and form to be specified by the Town shall be provided for the purpose of restoration and/or stabilization should the project be terminated. The Commission shall be the sole determiner of the extent to which such restoration and/or stabilization be performed in consultation with appropriate Town staff or consultants.
 13. The Commission acknowledges the advisory report of the Architectural Review Board and through this approval adopts the recommendations of that agency. The final architectural design shall incorporate such recommendations.
 14. Signage for the satellite occupancies and secondary building shall mimic or complement the principal or anchor use. An overall sign scheme for the entire project detailing the typical style of sign and placement shall be submitted to the P&Z Department for approval prior to installation.
 15. The freestanding sign proposed for this use shall be a ground sign as defined by the Zoning Regulations. The construction and installation shall mimic or complement the principal structure. Use of planters or similar features are encouraged as a base to the ground sign.
 16. No signs of any nature, other than normal temporary construction signs, are approved by this application. The installation of signs shall be approved only through the normal permit procedure of the Commission.
 17. All site lighting shall feature 90° cutoff shields (or similar spillage/glare dampers) for all fixtures, either free standing or building mounted. Bulbs, lenses and other light projecting portions of the fixtures shall not protrude beyond the frame of the fixtures.

18. Site lighting and free standing sign illumination shall be extinguished no later than one hour after the close of the latest open business or 11:00 p.m., whichever is later. Building mounted security lighting will be permitted to remain illuminated through hours of darkness.
19. The Permittee and/or property owner shall make provision for irrevocable mutual access agreements and easements to adjoining Phase I and Phase II properties to the north, and for commercial properties to the south should additional connecting access be made at some future date. Documentation of such provisions shall be supplied to the Commission and recorded in the Monroe Land Records.
20. The plans shall be revised to incorporate all construction and design conditions specified herein and address all comments in the reviewing reports submitted by town departments or their agents as part of, or in response to, the development proposal and not previously incorporated into the plans. Before initiation of any work the final revised plans shall be filed in the Planning and Zoning Department.
21. Reasonable field changes may be required on site by town staff as situations may demand. These changes are permitted so long as they do not significantly alter the intent or design of the approved plan.
22. Completion of all improvements shall be in accordance with the provisions of §8-3i, CGS. The expiration date for the completion of improvements shall be September 21, 2011.
23. The effective date of this permit shall be the date of recording in the Monroe Land Records. It shall be the responsibility of the applicant to record the special exception permit document (prepared by the Planning and Zoning Department) in the Monroe Land Records. Failure to record said document within ninety (90) days of the date of approval shall render the approval null and void.
24. It shall be the responsibility of the Permittee to keep and maintain the site clean and free of garbage and debris.
25. Outside storage of any kind after the completion of construction is specifically prohibited.
26. The short-term loading and unloading of delivery vehicles shall be limited to periods not exceeding 4 continuous hours for each specific vehicle. Overnight parking or storing vehicles is specifically prohibited, except for those vehicles operated by and accessory to the business of the occupants.
27. All representations by the applicant and his representatives in the presentation of the application and discussion reflected in the hearing record shall be binding upon this approval and are incorporated herein by reference.
28. Prior to the issuance of any building permit, the following items are to be submitted for review and final approval by the Director of Public Works:

- a. A final grading plan for the site including all building, road, and drainage details, including supportive calculations.
- b. A final erosion and sedimentation control plan and implementation schedule for the site, including the staging plan for construction.

The DPW's written approval of these items shall be indicated on the project construction plans prior to issuance of said building permits.

29. Before initiation of any work the final revised plans shall be filed in the Planning and Zoning Department. All final construction plans related to improvements shall be provided on sheet size not to exceed 24" x 36" and in a quantity to be specified by the Public Works Department prior to initial construction meeting.
30. A pre-construction conference is to be held with the developer and/or general contractor, engineer and architect, and members of the Town of Monroe Development Services Group prior to any work on the premises. Additional job meetings may be called as deemed necessary throughout construction of the project.
31. Final plans shall bear an endorsement block stating:

"These plans are the final construction plans and have been reviewed by the Director of Public Works and Town Planner.

Town Planner

Director of Public Works"

Said block shall appear in the lower right corner of each plan page near the title block.

32. The general construction operating days and times of the site shall be limited to (all times are local):

Monday - Saturday 7:00 a.m. - 5:00 p.m.

Based upon the provisions of Sections 117-2108A and 2109M of the Regulations, no vehicles or equipment on site shall be started or operated, or shall enter or leave the site before or after the specified hours.

33. In the case of blasting to be conducted on site, the days and times of shall be limited to (all times are local):

Monday - Friday 10:00 am - 3:00 pm

34. Should circumstances exist warranting the crushing, cracking or breaking of large rock, the use of any audible or vibration producing type equipment, which exceed the standards of §§117-1201A and 1201B of the regulations (i.e., crushers, percussion/hydraulic hammers, screeners, and similar, whether static or mobile), shall be limited to the following days and times of operation (all times are local):

Monday - Friday

9:00 a.m. - 4:00 p.m.

35. No construction activity of any sort may occur on any Sunday, any legal holiday declared by the State of Connecticut or government of the United States.
36. The Permittee at all times during construction shall maintain effective dust control measures and shall implement additional measures when and where directed by the Public Works Department and/or other responsible State agencies.
37. Subject to acceptance and authorization by property owners within a perimeter of 750 feet, the permittee shall cause to have pre-blast/pre-construction surveys conducted of structures, wells and sewage systems. Should these activities be attributable to degradation or damage to said facilities, the permittee shall repair or replace them to the same condition as existed at the time of the survey.
38. Claims resulting from all elements of the site development activities shall be resolved between the parties (Permittee, responsible contractors and their insurers and claimants). The Town of Monroe and its agencies shall not be party to claim resolution.
39. No trash, waste products including chemicals or petroleum products, or any type of waste may be deposited, stored, or buried on site with the exception of trash or garbage stored for immediate collection.
40. The Permittee, at his expense, shall install prior to commencement of site development, such highway signs and devices specified by the Monroe Police Department both internally and on the public roads. It shall be the Permittee's responsibility to determine through the Chief of Police what signs and devices, or other control measures will be required as well as their location. Such measures shall be maintained by the Permittee through the life of the operation.
41. Through the period of construction the Permittee shall produce engineering progress reports signed and sealed by a civil engineer licensed to practice in the State of Connecticut. Such reports shall state the status of construction, scheduling, notable conditions, problems encountered and resolution of same, and such other specific information the Commission may request. Such reports shall be produced on request or on a specific schedule to be determined by the Commission.
42. The Permittee shall submit all bonds and insurances as required by local and state laws and by the Commission at such times as may be necessary during the term of the overall construction of the project until such time as the improvements or work covered by the applicable bond or insurances is deemed to be acceptably complete by the requesting authority.
43. No structure, or part thereof, shall be certified for occupancy until all site improvements related directly to that structure are complete, with the exception that incomplete vegetative landscape improvements may be bonded to the Commission due only to inappropriate weather conditions affecting installation.

44. All improvements, including drainage construction, are to be installed based upon final plan design and in accordance with best engineering practice, and as specified by the Director of Public Works. Inspections of said improvements are to be performed by the design engineer who shall be a professional engineer licensed to practice in the state of Connecticut. Certifications of construction and "as-built" plans are to be submitted to the town upon request of the Director of Public Works or Town Planner based upon a schedule to be determined dependent upon phasing and/or prior to the Director of Public Works acceptance of such work.
45. A Stormwater Pollution Control Plan shall be prepared for all construction and post-construction activities. All construction and post-construction activities shall conform to the State of Connecticut, Department of Environmental Protection, "General Permit for the Discharge of Stormwater and Dewatering Wastes Associated with Construction Activities", Modified April 8, 2004, with all latest revisions.

For activities with a total disturbed area of five (5) or more acres, a "General Permit for the Discharge of Stormwater and Dewatering Wastes Associated with Construction Activities" will also be required from the State of Connecticut, Department of Environmental Protection.

No construction shall begin until approval of such Plan by the Town and, if applicable, the State is received.
46. As-built construction plans shall be provided promptly in accordance with Chapter 44 of the Code of the Town of Monroe.
47. Provision of copies of plans, details and/or specifications, as may be required by Town or State agencies from time to time.
48. Should this action be the subject of appeal to the courts at any level, no time limit specified herein shall begin to run until such litigation is fully concluded (date of final court action).
49. The Commission upon consideration of a written request of the Permittee or authorized agent may extend any or all time limits specified in this approval.
50. Failure to meet any other time limit specified herein shall render this approval null and void, unless such period has been extended by approval of the Commission.
51. Failure to meet any specified condition of this approval or maintain compliance with applicable local, state or federal ordinance, regulation or laws may result in the ordered suspension of construction authorizations until such time as such failure or noncompliance has been satisfactorily resolved.
52. Failure to maintain compliance with any specified condition of this permit shall constitute a violation of the terms of this permit and a violation of the Zoning Regulations enforceable and subject to any and all remedies prescribed by applicable state and local laws.

53. Should any changes in site plan be contemplated, they shall be submitted to the Commission for review. Should any changes be considered as major or substantial changes, or beyond the scope of the referenced plans, they shall be applied for under a special exception permit application to modify the approved site plan. Minor changes are considered by the Commission as those that do not change the substance, impact or general locations involved in the proposal and may be authorized by the Commission after appropriate review.
54. It is the responsibility of the owner/developer/Permittee to notify the Planning and Zoning Department of any change in the status of ownership and/or contractor(s) and/or professional design or inspection consultants involved in the proposal. Additionally, it is the responsibility of the owner/developer to notify any new owner and/or contractor(s) and/or consultants of all construction requirements including all job meeting notes and inspection notes produced up to the date of any such change in project related personnel.
55. This permit and all conditions specified herein shall be binding in perpetuity upon the applicant and property owner and his (their) heirs, assigns and successors unless otherwise amended by a subsequent act of the Commission.
56. This permit and all conditions specified herein shall be binding in perpetuity upon the parcels and premises unless otherwise amended or invalidated under the terms of this approval or a subsequent act of the Commission.

The vote was four (4) in favor of the motion, one (1) opposed. The application is thereby approved.

(VOTING RECORD FOLLOWS)

VOTING RECORD — IN FAVOR OF THE MOTION (4)	IN OPPOSITION TO THE MOTION (1)
ABATE, ANDREW EPIFANO, JOHN MICHAELS, WM. MARK PARSELL, MICHAEL (ALT)	MOORE, CHARLES
ALTERNATES PRESENT — NOT VOTING: HUGHES, MARK; SULLIVAN, JOSEPH	
ABSENT: MARTIN, ROBERT	

REC'D FOR RECORD

AT 12:34 PM. ATTEST

MONROE TOWN CLERK

